

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 14-54368

VICTOR HUGO MERLO, and  
ALICIA E. CANTONI,

Chapter 7

Judge Thomas J. Tucker

Debtors.

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**ORDER DENYING DEBTORS' MOTION TO REOPEN BANKRUPTCY CASE**

On September 10, 2014, Debtors filed a voluntary petition for relief under Chapter 7, commencing this case. On December 16, 2014, the Court entered an order granting both Debtors a discharge under 11 U.S.C. § 727 (Docket # 20). On January 9, 2015, the bankruptcy case was closed.

On May 4, 2015, the Debtors filed a motion to reopen their bankruptcy case (Docket # 22, the "Motion"). On May 28, 2015, the Debtors filed a Certification of Non-Response which indicates that no one has objected to the Motion (Docket # 24). The Court must deny the Motion, for the following reasons.

The Motion seeks to reopen the case for the purpose of "entering into a reaffirmation agreement with CitiMortgage, Inc." (Mot. at ¶ 5.) The Motion states, in relevant part, "[t]hat during the Debtor[']s case the Debtors decided not to enter into a reaffirmation agreement through their mortgage company CitiMortgage, Inc." (Mot. at ¶ 3.)

Under 11 U.S.C. § 524(c)(1), a reaffirmation agreement is not enforceable unless it "was made before the granting of the discharge under section 727." *See also In re Herrera*, 380 B.R. 446, 449-55 (Bankr. W.D. Texas 2007) and cases cited therein. Because the Motion indicates that no reaffirmation agreement was made (*i.e.*, signed by both the Debtors and the creditor CitiMortgage) before the discharge order was entered in this case, the Debtors have failed to show that there can be an enforceable reaffirmation agreement between these parties.

The Court further notes that the deadline to file a reaffirmation agreement is established by Fed.R.Bankr.P. 4008(a) — the deadline is "no later than 60 days after the date first set for the meeting of creditors under § 341(a) of the Code." In this case, the deadline was December 15, 2014.<sup>1</sup> Rule 4008(a) also provides that the Court may extend this deadline. But Fed.R.Bankr.P. 4004(c)(1)(J) contemplates that such a motion to extend can only be granted if the discharge has not yet been granted. *See* Fed.R.Bankr.P. 4004 advisory committee notes to 2008 Amendments

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<sup>1</sup> In this case, the date first set for the meeting of creditors was October 15, 2014. Sixty days from this date was Sunday, December 14, 2015. Therefore, the deadline to file a reaffirmation agreement was Monday, December 15, 2014. *See* Fed. R. Bankr. P. 9006.

(“Rule 4004(c)(1)(J) accommodates . . . an extension [of time for filing a reaffirmation agreement] by providing for a delay in the entry of discharge during the pendency of a motion to extend the time for filing a reaffirmation agreement.”). No motion to extend the deadline for filing a reaffirmation agreement was filed in this case. Because the discharge was granted, on December 16, 2014, it is now too late for such a motion to extend.

For these reasons, the Debtors have failed to demonstrate that any purpose would be served by reopening this bankruptcy case. The Motion has not demonstrated any cause or other valid reason for reopening this case. *See* 11 U.S.C. § 350(b).

Accordingly,

IT IS ORDERED that the Motion (Docket # 22) is denied.

**Signed on May 29, 2015**

/s/ **Thomas J. Tucker**

**Thomas J. Tucker**  
**United States Bankruptcy Judge**